

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 37-42, 44-47, 49, 52-62, 66-68 and 70-71 are rejected under 35 U.S.C. 103 over the Alanara reference in view of the Vanttila reference and Helferich reference, which are all U.S. patent application publications.

Claims 43 and 51 are rejected under 35 U.S.C. 103 over Alanara, Vanttila, and Helferich reference and further in view of the Winbladh reference.

Claim 48 is rejected under 35 U.S.C. 103(a) over the Alanara, Vanttila and Helferich reference and further in view of the Soderbacka reference.

Claim 65 is rejected under 35 U.S.C. 103(a) over the Alanara, Vanttila and Helferich reference, and further in view of the Soderbacka reference.

Claim 69 is rejected under 35 U.S.C. 103(a) over the Alanara, Vanttila, and Helferich reference and further in view of the U.S. patent to Proust.

Claims 63 and 64 are rejected under 35 U.S.C. 103(a) over the Alanara, Vanttila, and Helferich reference and further in view of the Hansson reference.

At the same time, claim 72 is allowed.

The Examiner's indication of the allowance of claim 72 has been gratefully acknowledged.

In view of the Examiner's rejection of the claims over the art, applicants amended claim 37, the broadest claim on file, so as to more clearly define the present invention and to distinguish it from the prior art.

Claim 37 as amended specifically defines a method for transmitting short messages in a radio telecommunication network, which comprises the following steps:

 sending a short message to a central station of a telecommunications network,

 the short message being addressed to a subscriber of the telecommunications network;

 sending a notification message from the central station to the addressed subscriber of said telecommunications network as a function of said short message transmitted to the central station;

 transmitting to the subscriber with the notification message, data that includes items of information about a makeup and/or a content of the short message, wherein the notification message is not the short message;

 transmitting with the notification message to the subscriber a first item of header information;

 and transmitting to the subscriber a second item of header information,

 the first item of header information including an item of

information about a presence of the second item of header information, and the second item of header information including at least one item of information about a type of evaluation of the notification message to be performed.

It is respectfully submitted that in accordance with the inventive method for transmitting short messages in a radio telecommunication network, in addition to the other steps, the method includes also the transmission with the notification message to the subscriber a first item of header information, and the transmission to the subscriber a second item of header information, wherein the first item of header information includes an item of information about the presence of the second item of header information, and the second item of header information includes at least one item of information about the type of evaluation of the notification message to be performed.

Turning now to the references applied by the Examiner and in particular the patent to Alanara, it can be seen that this reference does not disclose the new features of the present invention which are now defined in the amended claim 37.

The patents to Vanttila and Helferich also do not include these new features as now defined in the amended claim 37.

As for the combination of the references which was applied by the Examiner to show that the present invention as defined in the original claim 27 can be considered as obvious under 35 U.S.C. 103(a), it is respectfully submitted that the combination of the references would also not include the new features of the present invention which are now defined in the amended claim 37. Any method produced from the combination of the references would not lead to the applicant's invention.

The proposed combination of the references therefore can not be considered as making the present application obvious. In order to arrive at the applicant's invention from the combination of the above mentioned three references, the references have to be fundamentally modified, and in particular by including into them the new features which are first proposed by the applicants and now defined in the amended claim 37. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such

modification.

This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals, which for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest, it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

As for the other references which are applied in combination with the above discussed three references, it is believed that the arguments presented with respect to the main combination of the three references are fully applicable with respect to further combinations of the references.

None of the secondary references teaches the new features of the present invention as defined in claim 37 and therefore the combination of the references applied against the dependent claims should be considered as not tenable with respect to claim 37 and should be withdrawn.

Claim 37 as amended should be considered as patentably distinguishing over the art and should be allowed.

New claims 73 and 74, as well as other dependent claims, these claims depend on claim 37, they share its allowable features, and therefore it is respectfully submitted that they should also be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance; he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,



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